



FINDINGS OF FACT

1. The City of Manchester, by and through its School District, is a "public employer" of certain directors and coordinators employed in the school department within the meaning of RSA 273-A:1 X.
2. The positions petitioned for all operate in special capacities on behalf of the night, summer or adult education programs. According to the Superintendent of Schools, the Director of Adult and Vocational Education (Director Rist) is analogous to a principal in a regular (day time) school, with responsibilities to evaluate other personnel in the proposed bargaining unit, but without authority for serious disciplinary actions (e.g. non-renewal or termination) for which he may make recommendations to the Superintendent. This is not unlike the duties of a "more traditional" principal who may be called upon to evaluate assistant principals and staff in the same building and in the same bargaining unit with the principal, as is the case with principals and assistant principals elsewhere in Manchester. The Director, however, is responsible to the Superintendent.
3. The School Department is organized with one Superintendent to whom two assistant superintendents report, Curriculum and Instruction (C & I) and Finance and Administration (F & A). The Federal Projects Director (FPD) reports to C & I. The Food Service Director (FSD) and the Athletic Director (AD) report to F & A. Also reporting to the Superintendent are high school principals, the Director of Special Svcs. (DSS) and the Director of Adult and Vocational Education (DAVE). Both DSS and DAVE are petitioned for positions. The Assistant Director of Special Services (ADSS) and the District Project Coordinator (DPC) report to DSS. The Assistant Director of Vocational Education (ADVE) and the Enrollment Coordinator (EC) report to DAVE. (Dist. Ex. No. 1) ADSS, DPC, EC and ADVE are petitioned -for positions. With the exception of the C & I and F & A positions and the principals, which are not under consideration in these proceedings, none of the "reporting to" relationships, above, evidences the requisite exercise of "supervisory authority involving the significant exercise of discretion" sufficient to warrant the exclusion of the supervisor and supervises from the same bargaining unit.

4. None of the petitioned for employees (9 positions) referenced in paragraph 3 plus the Director of Fine Arts (DFA) and the Even Start Coordinator (ESC) spends a sufficient or meaningful amount of time discharging any "supervisory" or quasi-supervisory functions such as to warrant exclusion from the proposed bargaining unit under RSA 273-A:8 II.
5. All petitioned for employees (11) have essentially the same conditions of employment [same employer manner of compensation, benefits, work location(s) and self-felt community of interest], operate in the same profession (the delivery of educational services), and function within the same organizational unit within the district so that they fulfill the community of interest criteria found at RSA 273-A:8 I (a), (c) and (d), respectively.
6. The job description for DAVE contemplates a "confidential capacity...is the formulation and effectuation of labor relations policy matters." Conversely, the involved employees have not been organized before; therefore, there is no justification to apply an exclusion under RSA 273-A:1 IX (c). Likewise, only one of 21 performance responsibilities of the DAVE involves screening and recommending employees, an insufficient amount to qualify for a supervisory exclusion under RSA 273-A:8 II. (District Ex. No. 2)
7. The job description for DSS contemplates the same "confidential capacity" as referenced in Finding No. 6, yet these employees have not previously been organized. There is no justification to apply a RSA 273-A:1 (c) exclusion. Only two of 30 performance responsibilities speak to evaluations, determining tenure, recommending promotions, and assisting with recruitment and selection of personnel. None speaks to discipline. Sufficient justification for a supervisory exclusion under RSA 273-A:8 II does not exist. (District Ex. No. 7)
8. The job description for FPD contemplates the same "confidential capacity" as referenced in Finding No. 6, yet these employees have not previously been organized. Were they to have been organized, this position is placed, organizationally, at a level under the equivalent of a principal (DAVE, Finding No. 2, above) and would not qualify for a RSA 273-A:1 (c)

exclusion. None of the 17 performance responsibilities of the FPD speaks to evaluating, recruiting, recommending, disciplining or supervising subordinate employees.

BACKGROUND

For purposes of brevity, the Board's conclusions relative to the inclusion of petitioned-for positions are incorporated in the findings, above, and need not be restated here. The Board did direct specific attention to the three positions about which the employer expressed its strongest concerns, DAVE, DSS AND FPD. Findings No. 6, 7 and 8. Their levels of authority in the system, their responsibilities as they exist and are actually exercised, and their duties as actually discharged (compared to a potential for labor relations responsibilities which has never existed and likely never will at a level below a principalship) simply do not bring the contested positions to a level to justify their exclusion from the bargaining unit for the reasons advanced by the District. As noted in Finding No. 5, the criteria of RSA 273-A:8 I (a), (c) and (d) have been met and satisfied.

There is hereby established a bargaining unit consisting of the eleven (11) following positions: Director of Adult and Vocational Education, Director of Special Services, Federal Projects Director, Assistant Director of Vocational Education, Assistant Director of Special Services, Even Start Coordinator, Director of Fine Arts, District Project Coordinator, Enrollment Coordinator, Food Services Director and Athletic Director.

So ordered.

Signed this 23rd day of June, 1993.

  
 EDWARD J. HASELTINE  
 Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
 Members Seymour Osman and E. Vincent Hall present and voting.